

Public Notice

U S Army Corps of Engineers **Huntington District**

In reply refer to Public Notice No. Issuance Date:

April 20, 2005

Stream: Un Trib Blount Run

Closing Date:

May 20, 2005

Please address all comments and inquiries to: U.S. Army Corps of Engineers, Huntington District

ATTN: CELRH-OR-F Public Notice No. (reference above)

502 Eighth Street

200201421

Huntington, West Virginia 25701-2070

Phone: (304) 399-5210

PUBLIC NOTICE: The purpose of this public notice is to inform you of a proposal for work in which you might be interested. It is also to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest. We hope you will participate in this process.

REGULATORY PROGRAM: Since its early history, the U.S. Army Corps of Engineers (Corps) has played an important role in the development of the nation's water resources. Originally, this involved construction of harbor fortifications and coastal defenses. Later duties included the improvement of waterways to provide avenues of commerce. An important part of our mission today is the protection of the nation's waterways through the administration of the Corps Regulatory Program.

SECTION 404: The Corps is directed by Congress under Section 404 of the Clean Water Act (33 USC 1344) to regulate the discharge of dredged and fill material into all waters of the United States, including wetlands. The intent of the law is to protect the nation's waters from the indiscriminate discharge of material capable of causing pollution and to restore and maintain their chemical, physical and biological integrity.

TO WHOM IT MAY CONCERN: The following application has been submitted for a Department of the Army Permit under the provisions of Section 404 of the Clean Water Act. This notice serves as the Corps of Engineers' request to the Ohio Environmental Protection Agency (OEPA) to act on Section 401 Water Quality Certification for the following application:

APPLICANT:

Oxford Mining Company 544 Chestnut Street Post Office Box 427 Coshocton, Ohio 43812

LOCATION: The proposed project is in unnamed tributaries of Blount Run and adjacent wetlands east of State Route 666 and west of State Route 93 near Gilbert, Muskingum County, Ohio.

DESCRIPTION OF THE PROPOSED WORK: The applicant proposes to place fill material into waters of the United States in conjunction with surface coal mining activities at the Adamsville SE Mining Area. According to the applicant, the purpose of the project is to extract the No.6 and 6A coal by conventional surface mining methods in order to meet contractual obligations to deliver coal. Approximately 750 acres of land, the majority of which has been impacted by pre-SMCRA mining operations, would be impacted by the proposal.

Approximately 13,106' of eleven stream channels and 5.08 acres of six wetlands would be impacted by coal extraction, haul road crossings, sediment pond construction, and sediment transport activities. Tables 1 and 2 of this public notice provide additional information regarding the proposed stream and wetland impacts.

COMPENSATORY MITIGATION: The applicant has submitted a conceptual compensatory mitigation plan (CMP) to compensate for impacts to waters of the United States regulated by the United States Army Corps of Engineers. To mitigate for impacts to 13,106' of stream channel, the applicant proposes to reconstruct 12,246' of stream channel at the approximate location of the premining stream locations. The stream restorative measures would include creating a naturally stable channel using Rosgen principles and natural channel design techniques. Substrate would be obtained from native soil and rock obtained during the mining process. Pool-riffle structures would be incorporated into the reconstructed stream channels where practicable. Native grass and legume species would be planted during construction and reclamation. After establishment of vegetation, a riparian zone consisting of native tree and shrub species would be planted along the restored stream channels. The riparian zone would extend 50' from the top of each bank. To compensate for the loss of 5.08 acres of jurisdictional wetland, the applicant would restore a minimum of 7.65 acre of emergent/shrubscrub wetland at six separate locations along the reconstructed length of Stream A and Stream D and within Ponds 015, 016 and 017 as indicated on the site plan. Hydric soils removed from the existing wetlands would be stockpiled and re-distributed in the restored wetlands. Surface run-off and groundwater is expected to provide sufficient hydrology to support seasonal saturation and inundation. Emergent vegetation would be supplied via the seed source within the hydric soils while hydrophytic tree and shrub species would be planted. The stream channels and wetlands would be monitored for a period of five years. The property is a part of the Tri-Valley Wildlife Area and is owned by the Ohio Department of Natural Resources.

ALTERNATIVE ANALYSIS: A total of 5.08 acres of jurisdictional wetland would be filled as a result of the proposal. The project does not require access to or sitting within the wetlands to fulfill its basic purpose and is considered a non-water dependent activity. The Section 404(b)(1) Guidelines state that for non-water dependent activities, practicable alternatives that do not involve wetlands are presumed to be available unless clearly demonstrated otherwise. The applicant is required to provide an alternative analysis that must overcome the presumption prior to receiving authorization for the placement of fill material. The applicant has submitted the required alternative analysis and it is currently being reviewed.

Plans of the proposed work are attached to this notice.

A section 401 Water Quality Certification is required for this project. It is the applicant's responsibility to obtain the certification from the Ohio Environmental Protection Agency.

HISTORIC AND CULTURAL RESOURCES: The National Register of Historic Places has been consulted and it has been determined that there no listed properties eligible for the register in the area affected by the project. A copy of this public notice will be furnished to the Ohio State Historic Preservation Office for their review. Comments concerning archeological sensitivity of the project area should be based upon collected data.

ENDANGERED/THREATENED SPECIES REVIEW: The project is located within the known or historic range of the following endangered species:

Indiana Bat
Bald Eagle
Fanshell Mussel

The Huntington District has consulted the most recently available information and based on the proposed avoidance and minimization measures, and while the project will likely have no effect on these species or their designated Critical Habitat, this public notice serves as a request to the U.S. Fish and Wildlife Service for any additional information they may have on whether any listed or proposed to be listed endangered or threatened species may be present in the area which would be affected by the activity, pursuant to Section 7(c) of the Endangered Species Act of 1972 (as amended).

PUBLIC INTEREST REVIEW AND COMMENT: Any person who has an interest that may be adversely affected by the issuance of a permit may request a public hearing. The request must be submitted in writing to the District Engineer on or before the expiration date of this notice and must clearly set forth the interest which may be adversely affected and the manner in which the interest may be adversely affected by the activity. This application will be reviewed in accordance with 33 CFR 320-331, the Regulatory Program of the U. S. Army Corps of Engineers (USACE), and other pertinent laws, regulations, and executive orders. Our evaluation will also follow the guidelines published by the U. S. Environmental Protection Agency pursuant to Section 404(b) (1) of the CWA. Interested parties are invited to state any objections they may have to the proposed work. The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit that reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered including the cumulative effects thereof; of those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people. Written statements on these factors received in this office on or before the expiration date of this public notice will become a part of the record and will be considered in the final determination. A permit will be granted unless its issuance is found to be contrary to the public interest.

SOLICITATION OF COMMENTS: The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. For accuracy and completeness of the administrative record, all data in support of or in opposition to the proposed work should be submitted in writing setting forth sufficient detail to furnish a clear understanding of the reasons for support or opposition. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

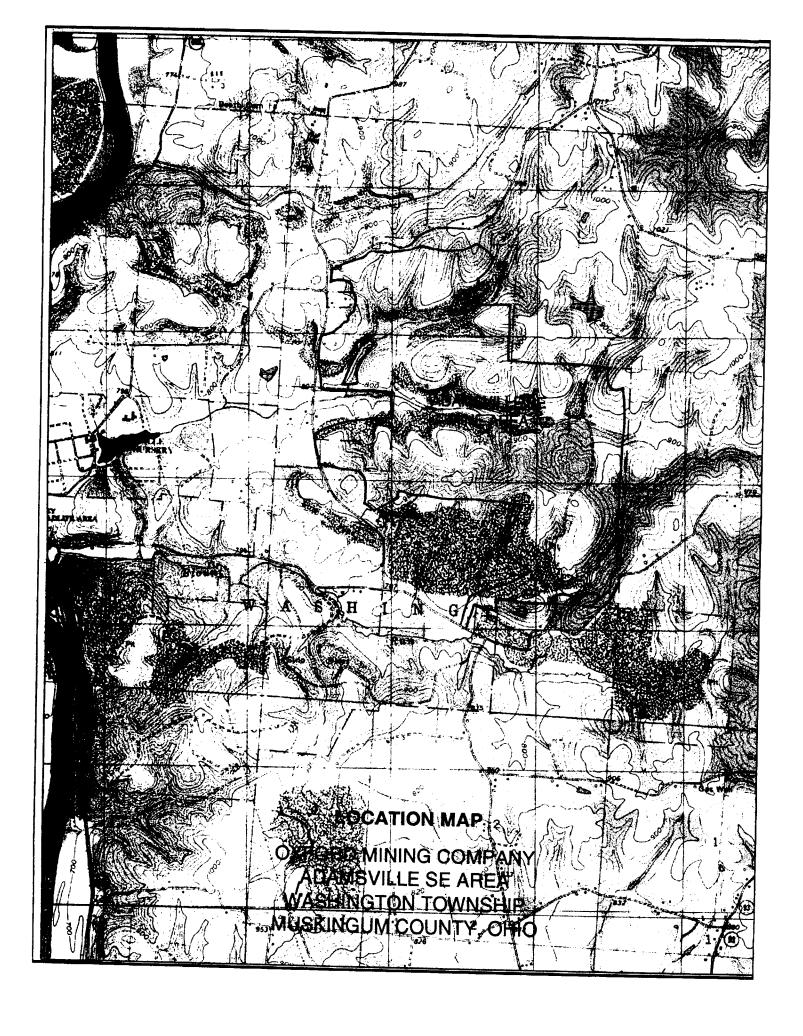
CLOSE OF COMMENT PERIOD: All comments pertaining to this Public Notice must reach this office on or before the close of the comment period listed on page one of this Public Notice. If no comments are received by that date, it will be considered that there are no objections. Comments and requests for additional information should be submitted to:

Kimberly Courts-Brown, Regulatory Project Manager North Regulatory Section, CELRH-OR-FN U. S. Army Corps of Engineers Huntington District 502 Eighth Street Huntington, West Virginia 25701-2070.

Please note names and addresses of those who submit comments in response to this public notice may be made publicly available. Thank you for your interest in our nation's water resources. If you have any questions concerning this public notice, please contact Kimberly Courts-Brown of the North Regulatory Section at 304-399-5210.

Ginger Mullins, Chief Regulatory Branch

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Adamsville SE Area Streams and Wetlands Impact/Avoidance Chart

STREAMS

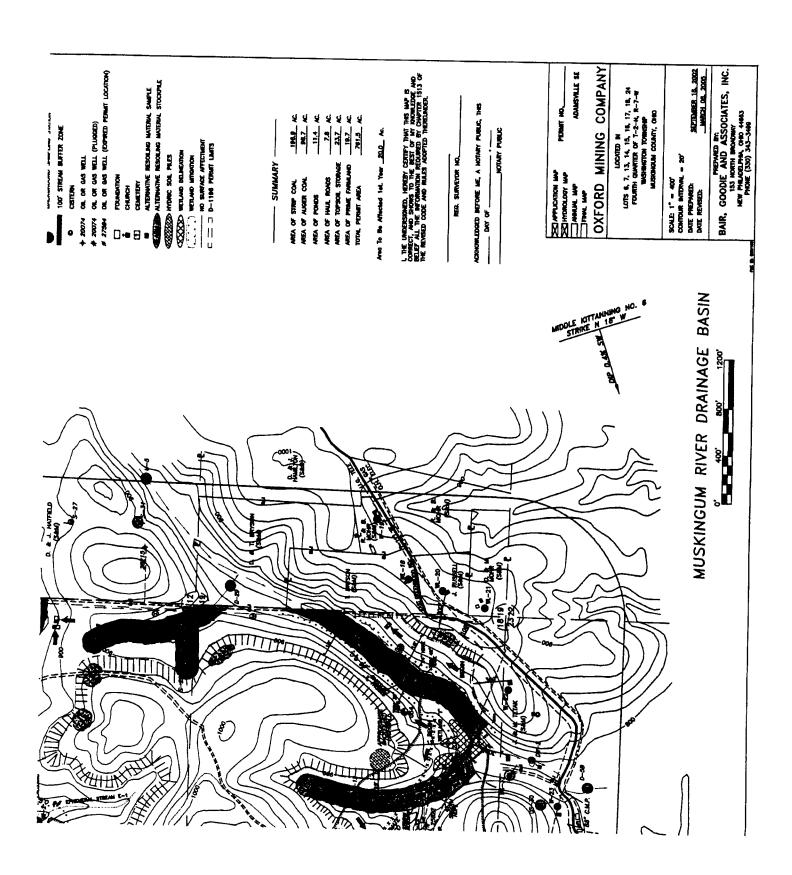
Stream ID	Type* E, I, or P	QHEI/HHEI Score*	Total Length on Site (if)	Total Length Certified (If)	Impact Type	% Avoided
Stream A	P	33.5-60.5	5450	3190	temporary crossing, mine through, temporary ponds (15,16)	41.47%
Stream B	ı	39	1144	1070	mine through, temporary pond (16)	6.47%
Stream C	1	41.5	1130	1050	temporary crossing, mine through	7.08%
Stream D	I	68.5	2355	1225	temporary crossing, mine through, temporary pond (17)	47.98%
Stream E	Р	58	1764	751	temporary crossing, temporary pond (14)	57.43%
Stream F	ı	44.5	2180	2040	temporary crossing, mine through, temporary pond	6.42%
Stream G	1	27.5	200	100	permanent crossing	50.00%
Stream H	1	38.5	1460	1460	temporary crossing, mine through, permanent pond (13)	0.00%
Stream I- Complex	1	50.75	1360	1360	mine through, permanent pond (12)	0.00%
Stream E-1	E.	•	900	690	Mine through	23.33%
Stream E-2	Е	-	325	170	Mine through	47.69%
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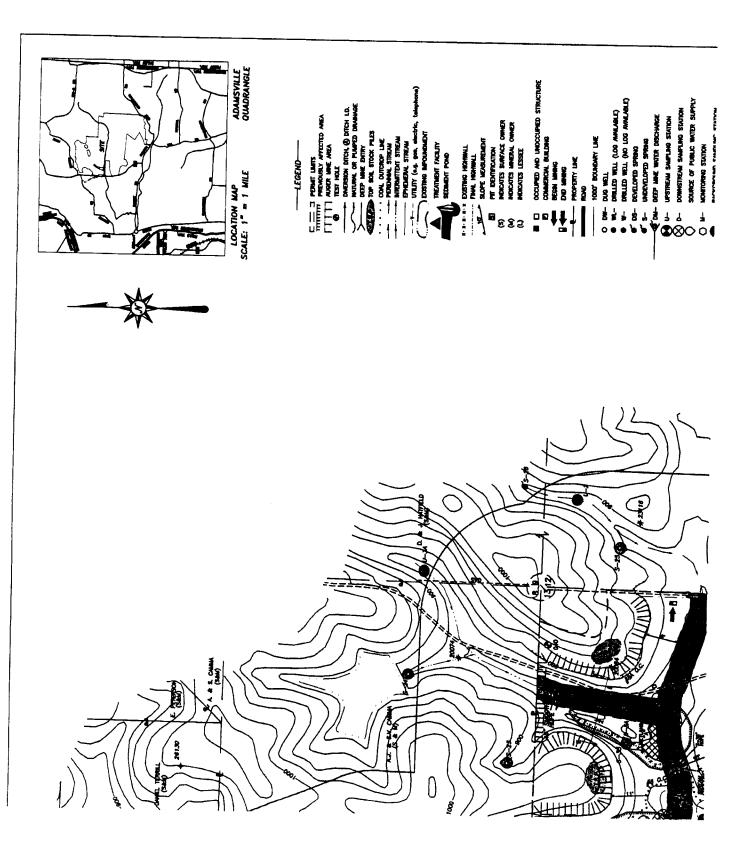
Table I

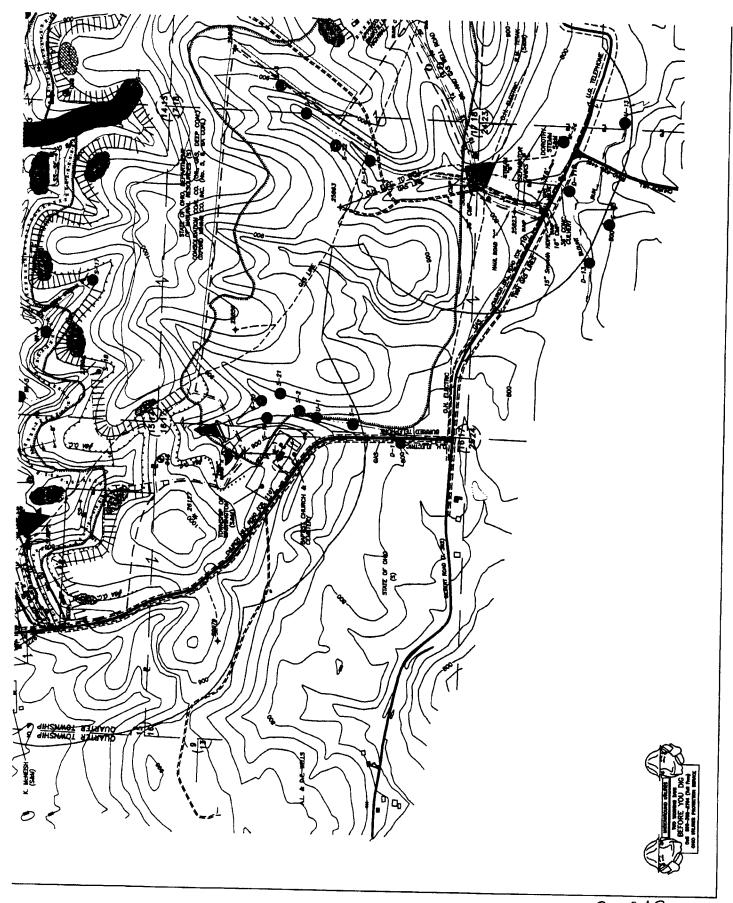
WETLANDS

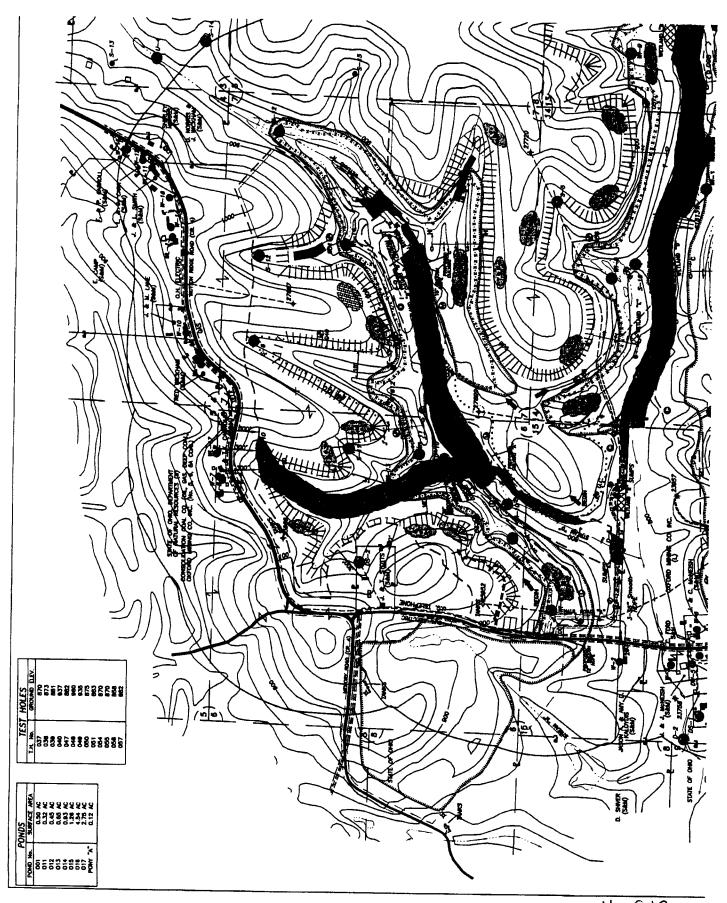
Wetland ID	Isolated or Adjacent	Forested or Non?	Category	Total Acreage on Site	Total Acreage Certified to be Impacted	% Avoided
Wetland A	Adjacent	Non	1	2.0	0	100.00%
Wetland B	Adjacent	Non	1	1.4	0.18	87.14%
Wetland C	Adjacent	Non	2	1.85	1.2	35.14%
Wetland D	Adjacent	Non	2	1.85	0	100.00%
Wetland E	Adjacent	Non	1	0.1	0	100.00%
Wetland F	Adjacent	Non	1	0.9	0.8	11.11%
Wetland G	Adjacent	Non	2	1.0	0.09	91.00%
Wetland H	Adjacent	Non	1	0.41	0.41	0.00%
Wetland I	Adjacent	Non	1	2.4	2.4	0.00%
Wetland R	Adjacent	Non	2	0.24	0	100.00%
Totals				12.15	5.08	58.19%

Table 2









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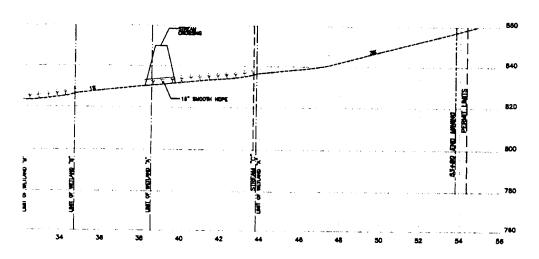


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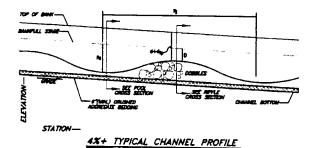
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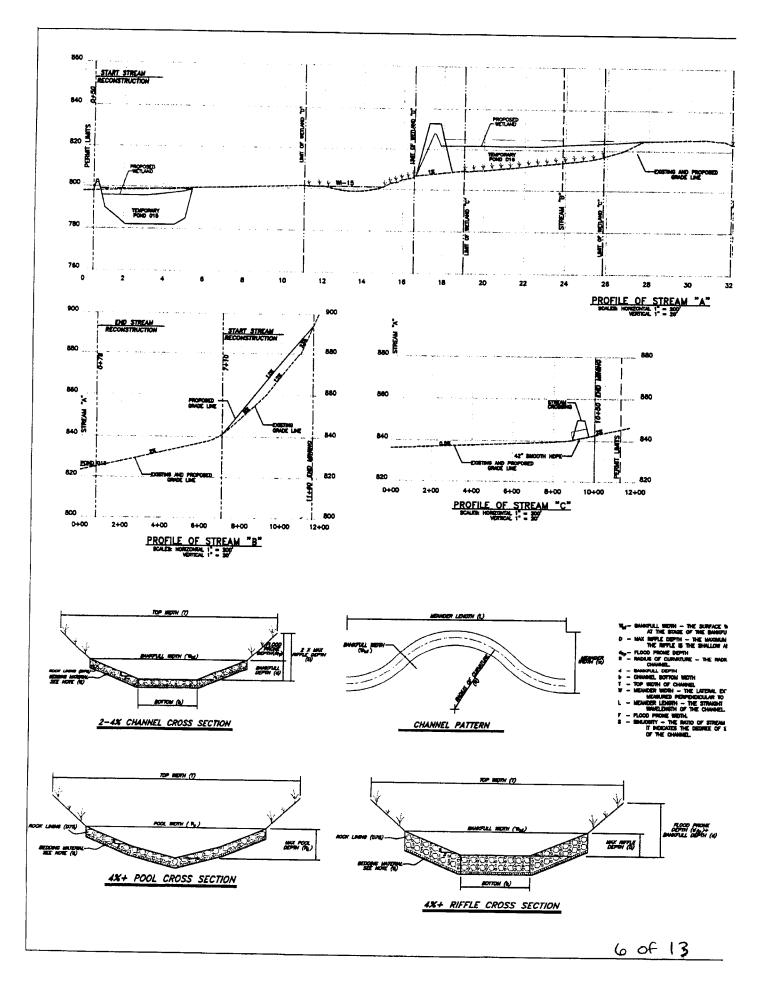


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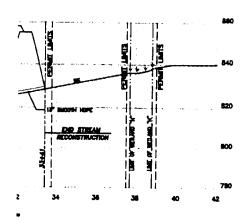
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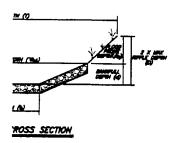
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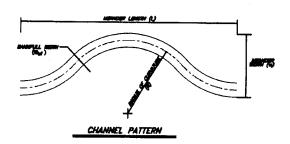
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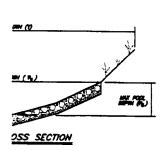




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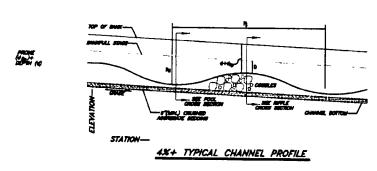


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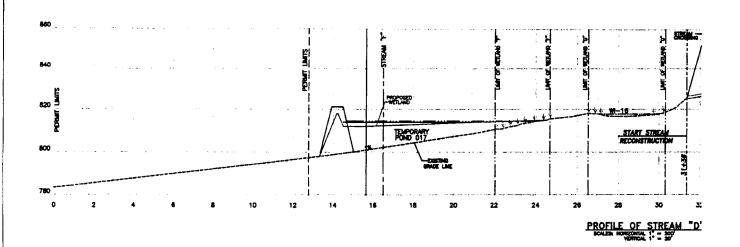
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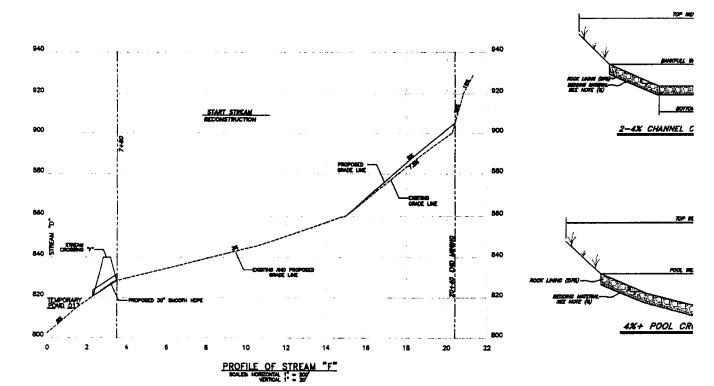
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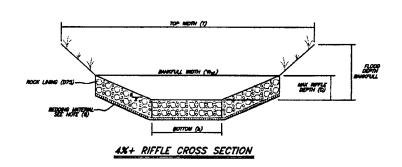


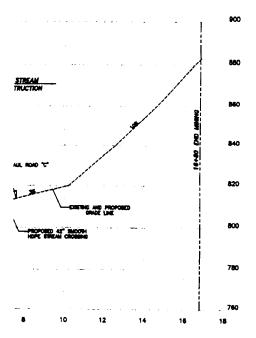
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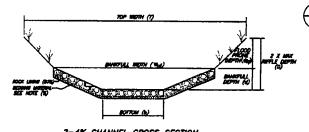
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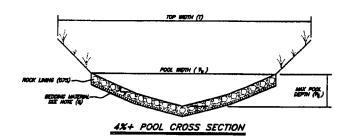
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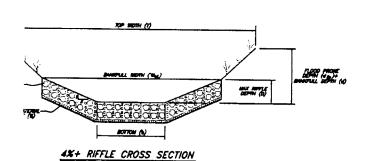






2-4% CHANNEL CROSS SECTION





CHANNEL PATTERN

CHART FOR CHANNELS OF 2-4%

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Lected is LOTS 13 & 16 POURTH OF 7-2-W, N-7-W WISHINGTON TOWNSHIP MUSICINGUAL COUNTY, CHIC

NATURAL STREAM RESTORATION OXFORD MINING CO., INC.

JOHN M. PELTZ, P.E. 63020

PREPARED BY: BARR, GOODIE AND ASSOCIATES, INC 153 HORRI BROGRIEF HEW PREADEJINE, OND 44653 PHONE (330) 343-3468 9 of 13

